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From: Robert M. Bauer, Esq. Date: August 9, 2004
Direct Dial: 212-895-2630 Client/Matter #: 6173/07US

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Applicant: Sinikka Sarkkinen et al.
Application No.: 10/076,617
Filing Date: February 19, 2002
Art Unit: 2684
Examiner: Tilahun Gesesse
Title: ADAPTIVE POWER CONTROL FOR MULTICAST
DATA TRANSMISSION

Please find enclosed: **REQUEST FOR CLARIFICATION OF OFFICE ACTION**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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REQUEST FOR CLARIFICATION OF OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

August 9, 2004

Sir:

Applicants gratefully acknowledge the second Office Action dated May 7, 2004. It is respectfully submitted that the Office Action is confusing and in need of clarification since the grounds of rejection for several of the dependent claims is inconsistent. Applicants therefore request that the Office Action be clarified or otherwise corrected to indicate the status of the dependent claims so that applicants are able to submit an appropriate response to the Office Action.

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Background

In the first Office Action dated November 21, 2003, most of the claims (claims 1-3, 6-16 and 19-29) were rejected as being anticipated by U.S. Patent Application Publication No. 2001/0046877 by Ohkubo et al. In the Response to the first Office Action filed on February 20, 2004, applicants argued that Ohkubo et al did not disclose all of the features recited in the independent claims (claims 1, 15, 23).

The current second Office Action provides a new grounds of rejection in which it is acknowledged that Ohkubo et al does not teach the feature recited in independent claims 1 and 15 of including power level measurement information in a message sent by the user equipment, and instead relies upon U.S. Patent No. 6,650,905 issued to Toskala et al for this feature. Dependent claims 3, 6-8 and 19-21 each recite further characteristics of the feature of including power level measurement information in a message sent by the user equipment. However, the Office Action did not change the grounds of rejection for claims 3, 6-8 and 19-21 and instead continues to rely upon Ohkubo et al. This is internally inconsistent with the rejection of independent claims 1 and 15 which affirmatively states that Ohkubo et al does not teach the feature of including power level measurement information in a message sent by the user equipment and cannot be correct.

Remarks

Because of the aforementioned inconsistencies, the grounds of rejection for dependent claims 3, 6-8 and 19-21 is unclear. The rejections of claims 3, 6-8, 19-21 cannot rely upon Ohkubo because that would be inconsistent with the rejection of independent claims 1 and 15

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which affirmatively states that Ohkubo et al does not teach the feature of including power level measurement information in a message sent by the user equipment. However, applicants cannot merely assume that the reliance upon Ohkubo et al in the rejection of the dependent claims is an Examiner oversight and therefore must have formal clarification. To be consistent, the Office Action must either allow claims 3, 6-8 and 19-21 or reject them based on some reference other than Ohkubo.

Applicants therefore respectfully submit that the Office Action requires clarification for this reason and requests that the Office Action be supplemented or corrected. Applicants also request that the period for response be restarted from the mailing date of any such supplemental or corrected Office Action. See MPEP 710.06.

The Commissioner is hereby authorized to charge any fees necessary for the consideration of this Response, or to credit any overpayment, to the undersigned attorney's Deposit Account No. 02-4270 (Dkt. No. 6173-07US).

Respectfully Submitted,



Robert Bauer, Reg. No. 34,487
BROWN RAYSMAN MILLSTEIN FELDER &
STEINER LLP
900 Third Avenue
New York, NY 10022
Tel: (212) 895-2000
Fax: (212) 895-2600